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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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Technology Center 2100

Application Number: 10/052,692
Filing Date: January 19, 2002
Appellant(s): LIN-HENDEL, CATHERINE

Anatoly S. Weiser
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1 August 2005 appealing from the Office action mailed 3 March 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

US Patent No. 5,874,936 to BERSTIS ET AL., issued 23 February 1999;

US Patent No. 6,222,541 B1 to BATES ET AL., issued 24 April 2001.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

(a) Claims 1 – 24, 27 – 34, 36 – 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Berstis et al ("Berstis"; U.S. Patent Number 5,874,936).

As per independent claim 1, Berstis discloses a "method of automatically scrolling" comprising the steps of:

"placing a cursor on a respective end of a floating border structure" (Figure 2 item 40 & 42); and

"in direct response to step (a), automatically scrolling through content extending beyond a display window into a field of view of the display window in a predetermined direction designated by the end" (col. 2 lines 7-9).

In Berstis, when the cursor 38 is placed at one side of a screen such as item 32, the contents of the window are automatically scrolled in the selected direction (Abstract). The control "structure" enacted at a Berstis boundary of the window is both "floating" (it is not directly seen in the window image, and thus a superimposition) and related to a "border", beyond which an attempt at cursor positioning merely results in continued scrolling of the window. Thus, the scrolling occurs "as a direct response" to the entries that bring the cursor to the edge 40 or 42. The "end" portions of this control are at the two opposite sides of the window 32 screen.

Regarding claim 2 (see also claim 12), Berstis's automatic scrolling upon reaching a boundary is a teaching that "the floating border structure has a top end and a bottom end" (col. 2 line 66 - col. 3 line 1 & Figure 2 item 32-36). In Figure 2, items 32-36 have floating border structures on the top and bottom of the screen, since a vertical scroll operation is possible. The two directions of scrolling; "down" and "up" at the "top end" and "bottom end" are the directions in which Berstis's content would appear to move.

Concerning claim 3 (see also claim 13), Berstis discloses that the floating border structure has a right-side end and a left-side end (col. 2 line 66- col. 3 line 1 & Figure 2 item 32-36), and thus, the "right-side end" placement of the cursor will result in scrolling to the "left", and "left-side end" placement will scroll the contents to the "right".

As per claims 4, 18 in Berstis, "moving the cursor away from the respective end" will result in ordinary cursor movement within a window such as 32. Thus, "directly in

response to the step (c), automatically stopping the step (b)" takes place upon such cursor relocation.

In regard to claim 5, Berstis discloses that it was known in the art to perform a Page Down (PgDn) and Page Up (PgUp) operation during scrolling (see col 1, lines 36 – 40), and thus, Berstis teaches that "border structure"-based scrolling will result in "pausing the step (b)" "if a full-screen shift of the content has occurred".

As per claim 6, Berstis, when performing the Page operation, will pause the scroll, prior to receiving user input such as another invocation of the command. Thus, were a "mouse" being used to control Berstis's cursor, this means waiting for the only affirmative continuance instruction available, "clicking a left key".

In regard to claims 7, 14, Berstis discloses the display window is a "browser window, and the content is a page" (col. 2 lines 63-65): Contents may include representations of files, folders, documents, databases, and spreadsheets, etc. Alternatively, the window 12 may also be said to display information which may include text, video images, graphic data, database records or spreadsheet cells.

In regards to claims 8, 15, 16, Berstis states "the floating border structure is" both of "a floating line or floating box", as in the linear regions at the edge of a window at which cursor positioning results in scrolling (Figure 1 item 20 & Figure 2 items 40 and 42).

As in claim 9, Berstis performs "one of" the list of alternative items when "activating a user control" (the cursor 38) will "begin automatic scrolling".

Independent claim 10 is similar in many respects to claim 1, and is generally rejected for reasons similar to those given above. The edge 40 or 42 on the Berstis screen also anticipates "at least one of a plurality of direction indicators", being at one direction relative to the content in the window.

As per independent claim 11, which is also generally similar to claim 1, the 4 edges of the rectangular Berstis window form pairs to read upon the "first floating border structure" "in a vertical plane" and "a second floating border structure" "oriented in a horizontal plane".

Concerning claim 17, the implementation of Page mode scrolling in Berstis will result in "automatic scrolling" that "is limited to a full-screen shift".

The introduction of "a second display window having a second field of view" in claim 19 is anticipated by Berstis's disclosure of plural windows in the arrangement of items 32, 34. The "second display window" has the same "sub-border structure" controls as the "main display window", these controls having been treated in the discussion above.

As per claim 20's "at least two of" in the "plurality of autoscrolling controls", Berstis's use of Page mode scrolling, which requires positive user input to advance to the next page, will involve both "a go button" and "a page button".

As per independent claim 21's "displaying a page of a website" and "during the displaying step, automatically scrolling the page to push and allure navigation through the website" (see also independent claim 31), this is the result of Berstis's automatic scrolling at the edge of the window, once the user has entered a positioning command

at that location. As a result of this operation, Berstis's user will then see continued display of content, "even if the user does nothing", and it will "push and allure navigation" by its presentation.

Concerning claims 22, 32, if Berstis's presentation of representations of files, folders, documents, databases, and spreadsheets, etc. has applicability to content extending to "a website", inherently shown in the display will be "multiple categories wherein each category has multiple sub-categories", and "displaying a floating dynamic instruction box overlaid on the page that displays navigational links" is then part of displaying the edges of the window, beyond which automatic scrolling begins. Upon seeing the additional hierarchically-arranged web content, "alluring the user to further navigate" is the result.

As per claims 23, 33, Berstis, in extending to a "website", will inherently show some form of "home page".

In regards to claims 24, 34, it is also an inherent property of a "website" to include a "blinking picture or link". This property is at the heart of the HTML definition and widely used. Should the user follow such a link, "dynamically changing the floating dynamic instruction box" to respond to the new page window occurs, "in response the at least one blinking picture".

Concerning claims 27, 36, Berstis's "website" applicability means that a shown "page includes at least two independent windows" (Figure 2 item: 32-34), and in operations upon these, "automatically scrolling independently the at least two independent windows" (claims 28, 37) becomes an inherent result. By selective

operations via the cursor, it becomes possible for this independent scrolling to occur "at a first speed" in the "first" and "a second speed different from the first" (claims 29, 38) in the "second". Such selection also permits "manually scrolling" one window and "continuously, automatically scrolling a second" (claims 30, 39).

(b) Claims 25, 26, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis in view of Bates et al ("Bates"; U.S. Patent Number 6,222,541).

In regard to claims 25, 35, Berstis shows the ability to automatically scroll through documents that are displayed in a window. If the information exceeds the window size, the user has the ability to automatically scroll through the information using a pointing device that is connected to the information processing system, but Berstis does not **explicitly** disclose all of "automating sequences of blinking links in a page; and, activating the blinking links of the sequences to automatically and sequentially push navigation within the website."

However, Bates discloses a method for locating and selecting hypertext links, and redirecting the web user to the selected web page. This is done by highlighting links to make them stand out compared to the HTML text (col. 9 lines 8-12).

Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Bates's highlighting and locating text method with Berstis's automatic scroll apparatus, because in Berstis the window may be said to display information that includes text, video images, graphic data, database records or spreadsheet cells (col. 2 lines 63-65), and the Bates web user simply navigates to a

web page and scrolls through the web page using the slider on the scroll bar (col. 3 lines 9-12), thus seeing the results of "automating sequences of blinking links".

The motivation for such a combination resides in the number of web users such as would use a Berstis window, which continues to grow: it becomes useful for a web user to be able to quickly and efficiently locate and select hypertext links embedded in web pages in the style of Bates.

As per claim 26, "user demographics or profile" are always a part of the personalized decisions to navigate in a system like Bates, which then affects the "sequences" seen.

(10) Response to Argument

In attempting to establish that "The meaning of 'automatically scrolling' in Berstis is...not the same as the meaning of similar expressions used in the claims of the present application", appellant's argument concerning claim 1 at page 8 is that because "Berstis requires that a remote pointing device be operated in order to scroll", Berstis does not disclose "scrolling in direct response to placing a cursor on the end of the floating border structure". Appellant intends this to mean that the claimed invention "does not require the user to take any other action". However, the actual recitation in the claim does not rule out such a possibility of further use of the cursor positioning control, once it has initiated scrolling as a "direct response" to the cursor being moved to a border. The Examiner is not permitted to read limitations into the claims in the style requested by Appellant. Given a reasonably-broad interpretation, the claim language

reads upon the movement of a cursor in Berstis resulting in "automatically scrolling...in direct response to" to its reaching an edge such as items 40, 42.

Appellant further argues at pages 9 - 10 that "'automatically scrolling' in claim 1 (and identical or similar expressions in other claims) must be considered in the context of the present specification." But even if "the specification leaves no doubt that in the present application this term refers to scrolling in response to placing the cursor on an end of the floating border structure", the Examiner must consider the broadest reasonable interpretation of the claims, and there is nothing in the claims to prohibit "automatically scrolling" in the style of Berstis, where additional input might be used, once the cursor is positioned.

While appellant offers at page 10 a dictionary definition of "direct" to mean "without intermediaries or intervention; immediate, uninterrupted", it remains that Berstis's scrolling also occurs as a "direct" result of the cursor reaching the edge. This is a condition that, when met, means that the scrolling is to begin. A "direct" consequence of the condition of cursor-positioning at the edge is that "automatically scrolling" will then be commenced.

Appellant takes issue at pages 10 – 11 with the Examiner's comment in the final rejection that the Berstis "inputs are <u>equivalent</u> to the positioning commands found in a mouse environment", since "equivalence should not be considered in determining anticipation". However, the "equivalence" of a mouse environment to Berstis is irrelevant in the consideration of anticipation of a claim such as claim 1, since Berstis

identically discloses "placing a cursor on a respective end of a floating border structure". There is no reference in the claim to a mouse environment.

Appellant's arguments concerning claims 10, 11; that Berstis allegedly does not show "automatic scrolling" as a "direct response" to cursor placement are substantially treated in the above response to the similar arguments presented with respect to claim 1.

Concerning claim 21, appellant argues at page 12 that because "Berstis...requires the user to operate the remote pointing device in order to scroll", "Berstis requires the user to do something", in contrast to "automatically scrolling the page to push and allure navigation through the website, even if the user does nothing". However, a careful analysis of the claim language will reveal that "automatically scrolling" need not accept the modifier "even if the user does nothing"—all the claim says is that "to push and allure navigation through the website" takes place upon the scrolling, and the user is pushed and allured "even if the user does nothing". A Berstis user, having scrolled into view a further page of web content, provides a display that causes the pushing and allure, "even if the user does nothing" but have it on the screen. Once again, the Examiner cannot read in the manner of limitations appellant wishes.

Appellant's argument at page 13 regarding claim 31 is similar to that presented in connection with claim 21, and the Examiner's response is based on a line of reasoning similar to that given immediately above.

Regarding the rejection of dependent claim 5, appellant argues at pages 13 – 14 that "the rejection attempts to incorporate a certain feature into applicant's invention, not

into the prior art", when reference is made to the accepted use of "Page Down and Page Up" operations as they would apply in Berstis. However, the Examiner is merely comparing the actual claim language of "determining if a full-screen shift of the content has occurred" and "automatically pausing" the scrolling with the identical result seen when full-page scrolls are instructed in a scrolling setting such as Berstis's. After a paging control has been executed, there will be a pause, once it is determined that a full-screen shift has occurred.

Concerning the rejections of dependent claims 24, 34, appellant argues at page 14 that because the Examiner is relying upon the "known property of a 'website' to include a 'blinking picture or link'" that "Official Notice of this fact has not been taken", and that such a taking "would have constituted a new ground of rejection and the action could not have been made final". However, it is the Examiner's intent to indicate, more precisely, a property that is **inherent** to a display like Berstis's, which adapts to such media as a "website" where the "website" uses content that blinks. Thus it is deemed that Berstis teaches a display in which this will occur.

Concerning the ground **(b)** of rejection based upon Berstis and Bates, appellant merely argues (page 15) that "Dependent claims not specifically addressed in the above arguments should be patentable at least for the reasons discussed in relation to their base and intervening claims, if any."

For the above reasons, it is therefore believed that the rejections should be sustained.

Respectfully submitted,

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September 20, 2005

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